

1-30-03

#8 \$20K

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNINTENTIONALLY UNDER 37 CFR 1.37 (b)Docket Number (Optional)  
DT.0104First named Inventor: Delurgio, Phil  
Neal, Michael

Application No: 09/849448

Group Art Unit:

Filed: 5/4/2001

Examiner:

Title: INTERFACE FOR MERCHANDISE PROMOTION OPTIMIZATION

Attention: Office of Petitions  
Assistant Commissioner for Patents  
Box DAC  
Washington, D.C. 20231NOTE: If information or assistance is needed in completing this form, please contact Petitions  
Information at (703) 305-9282.The above-identified application became abandoned for failure to file a timely and proper reply to a  
notice or action by the United States Patent and Trademark Office. The date of abandonment is the  
day after the expiration date of the period set for reply in the Office notice plus an extension of time  
actually obtained.

## APPLICANT HERBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following item:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee —required for all utility and plant applications  
filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

## 1. Petition fee

☒ Small entity-fee \$650 (37 CFR 1.17 (m)). Applicant claims small status. See 37 CFR 1.27.☐ Other than small entity — fee \$ \_\_\_\_\_ (37 CFR 1.17 (m))

## 2. Reply and/or fee

A. The reply and/or fee to the above-noted Office Action in  
The form of Request to Rescind (identify type of reply):

- ☐
- has been filed previously on \_\_\_\_\_
- 
- ☒
- is enclosed herewith.

B. The issue fee of \$ \_\_\_\_\_

- ☐
- has been paid previously on \_\_\_\_\_
- 
- ☐
- is enclosed herewith.

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01 FC:2453

650.00 OP

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3. Terminal disclaimer fee

☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

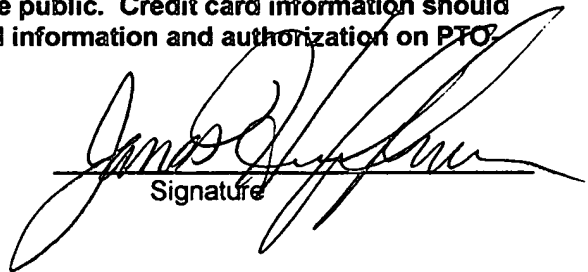
☐ A terminal disclaimer (disclaimer fee (37 CFR 1.20 (d) of \$\_\_\_\_\_ for a small entity or \$\_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under CFR 1.137(b) was unintentional. [Note: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under CFR 1.137(b) was unintentional (MPEP 711.03(c) subsections (III)(C) and (D))].

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

1-28-03  
Date

Telephone  
Number: (719 ) 475-7103

  
Signature

James W. Huffman  
Typed or printed name

1832 N. Cascade Ave.

Colorado Springs, CO 80907

Enclosures: ☒ Fee Payment  
☒ Reply  
☐ Terminal Disclaimer Form  
☐ Additional sheets containing statements establishing unintentional delay  
☐ Other: \_\_\_\_\_

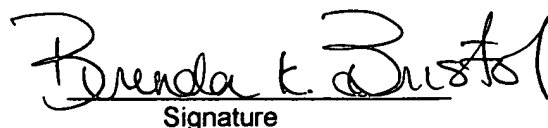
**CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8 (a)]**

I hereby certify that this correspondence is being:

☒ deposited with the United States Postal Service on the date shown below with sufficient postage as Express Mail in an envelope addressed to: Assistant Commissioner for Patents, Box DAC, Washington D.C. 20231.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

1/28/03  
Date

  
Signature

Brenda K. Bristol  
Typed or printed name of person signing certificate



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

<b>In re application of:</b>	Delurgio, Phil Neal, Michael	<b>Examiner:</b>	
<b>Docket:</b>	DT.0104	<b>Art Unit:</b>	
<b>Serial No.:</b>	09/849448		
<b>Filing Date:</b>	5/4/2001		
<b>Title:</b>	INTERFACE FOR MERCHANDISE PROMOTION OPTIMIZATION		

**INFORMATION REGARDING REQUEST TO RESCIND  
UNDER 35 USC 122(B)(2)(B)(II)**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

On May 4, 2001, Applicant filed the above referenced patent application along with a Request for Non-Publication under 35 USC 122(b)(2)(B)(1).

On April 25, 2002, Applicant filed a corresponding patent application under the Patent Cooperation Treaty. Applicant believed that at the time of filing this application, that he filed the accompanying Request to Rescind.

On January 27, 2003, Applicant received and reviewed a Notice from the PCT informing Applicant that the corresponding PCT application was published on January 3, 2003. A copy of this Notice is attached hereto, specifically identifying the PCT application, and the publication date of the PCT application. Upon receipt of this notice, Applicant reviewed the above referenced US patent application and discovered that the attached Request to Rescind was not submitted to the US Patent Office within 45 days from the filing date of the PCT application.

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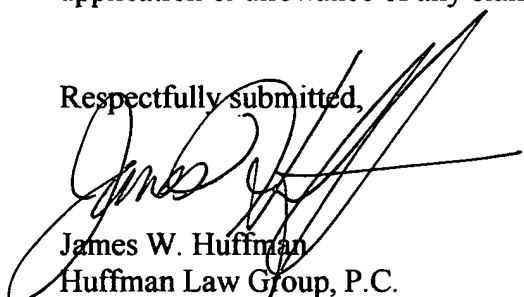
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It is Applicant's standard practice, at the time any PCT application is filed, to review the corresponding US application and confirm whether a Notice of Non-Publication was originally submitted. Applicant believes that this was done.

It is also Applicant's standard practice to prepare and submit a Request to Rescind, as needed, either on the same day, or the following day, after filing a PCT application. Applicant has no recollection as to why this was not done for the above referenced patent application. Moreover, Applicant submits that the entire delay in submitting the attached request was unintentional.

Applicant earnestly requests the Examiner to telephone him at the direct dial number printed below if the Examiner has any questions or suggestions concerning the application or allowance of any claims thereof.

Respectfully submitted,



James W. Huffman  
Huffman Law Group, P.C.  
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jim@huffmanlaw.net

Date: 1-27-03

"EXPRESS MAIL" mailing label number E0000506239US Date of Deposit  
1/28/03. I hereby certify that this paper is being deposited with the U.S.  
Postal Service Express Mail Post Office to Addressee Service under 37 C.F.R. §1.10 on  
the date shown above and is addressed to the U.S. Commissioner of Patents and  
Trademarks, Washington, D.C. 20231.  
By: Burda K. Bustol

From the INTERNATIONAL BUREAU

**PCT****NOTICE INFORMING THE APPLICANT OF THE  
COMMUNICATION OF THE INTERNATIONAL  
APPLICATION TO THE DESIGNATED OFFICES**

(PCT Rule 47.1(c), first sentence)

To:

HUFFMAN, James, W.  
Huffman Law Group  
1832 N. Cascade Avenue  
Colorado Springs, CO 80907  
ETATS-UNIS D'AMERIQUE

Date of mailing(day/month/year) 03 January 2003 (03.01.03)		
Applicant's or agent's file reference DT:0104-PCT		IMPORTANT NOTICE
International application No. PCT/US02/014977	International filing date(day/month/year) 25 April 2002 (25.04.02)	Priority date(day/month/year) 04 May 2001 (04.05.01)
Applicant DEMANDTEC, INC., et al		

1. Notice is hereby given that the International Bureau has **communicated**, as provided in Article 20, the international application to the following designated Offices on the date indicated above as the date of mailing of this notice:

KP, KR, US

In accordance with Rule 47.1(c), third sentence, those Offices will accept the present notice as conclusive evidence that the communication of the international application has duly taken place on the date of mailing indicated above and no copy of the international application is required to be furnished by the applicant to the designated Office(s).

2. The following designated Offices have waived the requirement for such a communication at this time:

AE, AG, AL, AM, AT, AU, AZ, BA, BB, BG, BR, BY, BZ, CA, CH, CN, CO, CR, CU, CZ, DE, DK, DM, DZ, EC, EE, EP, ES, FI, GB, GD, GE, GH, GM, HR, HU, ID, IL, IN, IS, JP, KE, KG, KZ, LC, LK, LR, LS, LT, LU, LV, MA, MD, MG, MK, MN, MW, MX, MZ, NO, NZ, OM, PH, PL, PT, RO, RU, SD, SE, SG, SI, SK, SL, TJ, TM, TN, TR, TT, TZ, UA, UG, UZ, VN, YU, ZA, ZM, ZW

The communication will be made to those Offices only upon their request. Furthermore, those Offices do not require the applicant to furnish a copy of the international application (Rule 49.1(a-bis)).

3. Enclosed with this notice is a copy of the international application as published by the International Bureau on 03 January 2003 (03.01.03) under No. WO 03/001321.

4. **TIME LIMITS for filing a demand for international preliminary examination and for entry into the national phase**

The applicable time limit for entering the national phase will, **subject to what is said in the following paragraph**, be **30 MONTHS** from the priority date, not only in respect of any elected Office if a demand for international preliminary examination is filed before the expiration of **19 months** from the priority date, but also in respect of any designated Office, in the absence of filing of such demand, where Article 22(1) as modified with effect from 1 April 2002 applies in respect of that designated Office. For further details, see *PCT Gazette* No. 44/2001 of 1 November 2001, pages 19926, 19932 and 19934, as well as the *PCT Newsletter*, October and November 2001 and February 2002 issues.

In practice, **time limits other than the 30-month time limit** will continue to apply, for various periods of time, in respect of certain designated or elected Offices. For **regular updates on the applicable time limits** (20, 21, 30 or 31 months, or other time limit), Office by Office, refer to the *PCT Gazette*, the *PCT Newsletter* and the *PCT Applicant's Guide*, Volume II, National Chapters, all available from WIPO's Internet site, at <http://www.wipo.int/pct/en/index.html>.

For filing a demand for international preliminary examination, see the *PCT Applicant's Guide*, Volume I/A, Chapter IX. Only an applicant who is a national or resident of a PCT Contracting State which is bound by Chapter II has the right to file a demand for international preliminary examination (at present, all PCT Contracting States are bound by Chapter II).

It is the applicant's **sole responsibility** to monitor all these time limits.

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